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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

EDGAR ADRIAN AGUILAR,

Defendant and Appellant.

A125521

(Napa County  
Super. Ct. No. CR137324)

Defendant Edgar Adrian Aguilar appeals following entry of judgment on his negotiated no contest plea to voluntary manslaughter and admission that the crime was committed in association with a criminal street gang. (Pen. Code, §§ 186.22, subd. (b)(1)(C), 192, subd. (a) [all further section references are to this code except as noted].) Defendant waived his appeal rights when entering his plea. This appeal concerns only the sentence and other matters occurring after the plea. Defendant's appointed counsel on appeal reviewed the record of this case, did not identify any trial court errors, and asked this court for an independent review of the record to determine if any arguable issues exist for review on appeal. (*Anders v. California* (1967) 386 U.S. 738, 744; *People v. Kelly* (2006) 40 Cal.4th 106, 119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.) Defendant was advised that he could file a supplemental brief with this court raising any issues he wished to call to our attention, and defendant did not file a brief. We have reviewed the record and, finding no errors or arguable issues for review, affirm the judgment.

## I. FACTS AND PROCEDURAL HISTORY

According to the probation officer's report, on October 1, 2007, defendant and another young man became embroiled in a verbal altercation with three rival gang members that escalated into a fist fight. Defendant pulled out a knife he carried with him and stabbed one of the rival gang members, Manual Macias. Macias died from a single stab wound to his chest.

Defendant was 15 years old at the time but charged as an adult. (Welf. & Inst. Code, § 707, subd. (d)(2)(A).) Defendant was appointed legal counsel to represent him on October 3, 2007. On November 2, 2007, defendant was charged in a first amended complaint with murder (§ 187, subd. (a)), assault with a deadly weapon (§ 245, subd. (a)(1)), and street terrorism (§ 188.22, subd. (a)). Various sentence enhancements were alleged, including allegations that the murder and assault were committed in association with a criminal street gang. (§ 186.22, subd. (b)(1)(C).)

In April 2009, defendant entered a negotiated disposition. The parties stipulated to adult court jurisdiction. Defendant pleaded no contest to voluntary manslaughter (§ 192, subd. (a)) in exchange for which the murder charge (§ 187, subd. (a)) and other charges were dismissed. Defendant admitted that the crime was committed in association with a criminal street gang and with personal use of a deadly weapon. (§§ 186.22, subd. (b)(1)(C), 12022, subd. (b)(1).) When entering his plea, defendant waived his constitutional rights in writing and acknowledged that he would be sentenced to prison for a minimum term of 13 years and a maximum term of 22 years. Defendant also acknowledged that his plea could result in deportation (defendant is a Mexican citizen) and that he was liable for restitution.

In June 2009, the court sentenced defendant to 21 years in prison, as follows: the upper term of 11 years for manslaughter (§ 193, subd. (a)) and 10 years for gang participation (§ 186.22, subd. (b)(1)(C)). The court chose the upper term of punishment for manslaughter among three possible terms after considering facts relating to defendant and the crime. (§§ 193, subd. (a), 1170, subd. (b); Cal. Rules of Court, rule 4.420.) The

court stayed punishment for the weapon enhancement. (§ 12022, subd. (b)(1).) Defendant was ordered to pay restitution of \$8,510.95 to the victim's mother. In July 2009, defendant timely filed a notice of appeal from the sentence and other matters occurring after the plea.

## II. DISCUSSION

Neither appointed counsel nor defendant has identified any issue for our review. We have independently reviewed the entire record and find no errors or arguable issues for review. (*Anders v. California, supra*, 386 U.S. at p. 744; *People v. Wende, supra*, 25 Cal.3d at pp. 441-442.) Defendant was represented by counsel throughout the proceedings. His plea was entered after full advisement of his constitutional rights, and was entered freely and voluntarily. The court sentenced defendant to 21 years, which is statutorily authorized and within the stipulated range of punishment set by the plea bargain. (§§ 186.22, subd. (b)(1)(C), 193, subd. (a).) The court had discretion to choose the upper term of three possible terms for manslaughter (§§ 193, subd. (a), 1170, subd. (b)), and reasonably exercised that discretion.

## III. DISPOSITION

The judgment is affirmed.

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Sepulveda, J.

We concur:

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Ruvolo, P. J.

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Rivera, J.